

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of:)	
)	
Improving Public Safety Communications)	WT Docket No. 02-55
In the 800 MHz Band)	
)	
Consolidating the 900 MHz Industrial/Land)	
Transportation and Business Pool Channels)	
)	

COMMENTS OF COASTAL SMR NETWORK, L.L.C.

Coastal SMR Network, L.L.C. and its affiliates ("Coastal"), licensees of 27 EA and 138 high-site Specialized Mobile Radio Service ("SMRS") authorizations in the Mid-Atlantic region,¹ by its attorneys, hereby submit its Comments on certain *ex parte* presentations by Nextel Communications, Inc. ("Nextel") and other parties in the above-captioned proceeding (the "*800 MHz Rebanding*") in response to the Public Notice released by the Commission on October 22, 2004.² The Commission's August 6, 2004 *Report and Order* in this proceeding adopts rules for the relocation of Public Safety and non-Public Safety licensees in the frequencies 806 to 824 MHz and 851 to 869 MHz (the "800 MHz Band").³ The new 800 MHz band plan greatly favors Nextel to the detriment of Coastal and many other Nextel competitors in the 800 MHz Band. By depriving Coastal and other non-Nextel incumbents of the ability to implement

¹ A listing of licenses held by Coastal and its affiliates, Commercial Radio Service Corp. and A.R.C., Inc. d/b/a Antenna Rentals Corp., is attached hereto as Exhibit A.

² *Commission Seeks Comment on Ex Parte Presentations and Extends Certain Deadlines Regarding the 800 MHz Public Safety Interference Proceeding*, FCC 04-253, rel. October 22, 2004.

³ See Improving Public Safety Communications in the 800 MHz Band, *Report and Order*, *Fifth Report and Order*, *Fourth Memorandum Opinion and Order*, and *Order*, WT Docket No. 02-55, et. Al, FCC 04-168 (rel. August 6, 2004) ("*Report and Order*").

cellular architecture in the future with (non-EA) licenses currently in a high-site configuration, the new rules greatly diminish the economic value of Coastal's and other non-Nextel licensees' spectrum resources, while permanently locking non-Nextel incumbents into a position where they cannot compete effectively with Nextel.

The many legal and policy infirmities in the *800 MHz Rebanding* are beyond the scope of these Comments. Those issues resulting in unlawful and inequitable treatment of Coastal will be presented for timely reconsideration by the Commission. These Comments are limited to the further proposals and revisionist clarifications in Nextel's *ex parte* submissions, adoption of which would only exacerbate the problems and inequities in the new band plan.

I. THE NEWLY-ADOPTED BAND PLAN THWARTS NEXTEL'S COMPETITORS WHO PLAN TO "CELLULARIZE" THEIR SYSTEMS.

Over the past 30 years, Coastal built a substantial communications system utilizing 138 site-based SMRS licenses in the 800 MHz Band throughout the Mid-Atlantic region. As the regulatory structure permitted and technology developed, Coastal recognized the opportunity to convert its high-site facilities into a cellular-type system to compete more effectively with Nextel. However, in order to implement such a system, Coastal required additional spectrum. The Commission's Spectrum Auctions 34 and 36 presented the opportunity to acquire most of the necessary spectrum. In those auctions, Coastal acquired 27 EA licenses in the same and contiguous geographic areas as its existing site-based licenses.

Coastal's intention was to convert its high-site facilities to cellular infrastructure in an integrated system utilizing not only the spectrum acquired in Auctions 34 and 36, but additional spectrum where needed to be acquired in the secondary market. Coastal's intentions in this regard were manifest not only in the nearly \$800,000 it paid in the auctions, but in its retention of Performance Industries, a leading consulting firm in the SMRS industry, to assist in

the cellular system design and implementation. See Letter from Performance Industries attached hereto as Exhibit B. Adverse economic conditions in the aftermath of September 11, 2001, coupled with the regulatory uncertainty following Nextel's November 2001 "White Paper" (petitioning the FCC to reconfigure the 800 MHz land mobile radio band to rectify interference and to allocate additional spectrum to meet public safety needs), retarded investment in Coastal's digital-cellular conversion. As a result, Coastal was temporarily unable to go forward with the construction of a cellular system until the investment climate improved and the spectrum variables were resolved.

The *Report and Order* adopts a band plan that does not accommodate Coastal's site-based facilities into a band-segment where cellular systems can operate. Without adequate public notice, the Commission changed the existing flexibility of the site-based licenses, eliminating the ability of licensees to upgrade to digital cellular technology. Apparently, only Coastal's EA authorizations will be accommodated in the cellular portion of the new band plan. It remains to be seen where in the cellular portion of the new band plan those EA licenses ultimately will be relocated. The result is a huge reduction in the utility and economic value of both Coastal's site-based licenses and the spectrum acquired by Coastal at auction.

II. NEXTEL'S FURTHER PROPOSALS AFFECTING THE PLACEMENT OF INCUMBENTS (OTHER THAN NEXTEL, NEXTEL PARTNERS, AND SOUTHERN LINC) SHOULD NOT BE ADOPTED.

The inequities in the Commission's new band plan would be sharpened if the proposals in Nextel's *ex parte* presentations are implemented. Each time Nextel refers to "incumbents" other than "Nextel and Southern LINC" in its *ex parte* communications, Nextel proposes to further harm Nextel's competitors. For example, Nextel advocates that incumbent

B/ILT or SMR licensees (other than Nextel and Southern LINC) need not be relocated from channels 121-150.⁴ Of course, if they are not relocated, they cannot implement cellular systems in the future. They will be forever locked into high-site configurations in the new band plan. Moreover, Nextel advocates that incumbents (other than Nextel and Southern LINC) that elect to be relocated out of the non-cellular channel block be subject to a packing plan starting at 861.9875 MHz. This, of course, would place Nextel's competitors into a secondary guard band, leaving Nextel to claim the best spectrum on a preferential basis. Simply put, these proposals worsen the inequities in the new band plan and should not be adopted.

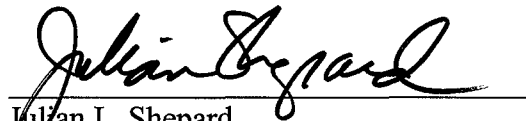
III. CONCLUSION

For those reasons, Coastal urges the Commission to reject the further modifications to the new band plan advocated by Nextel.

Respectfully submitted,

COASTAL SMR NETWORK, L.L.C.

By:



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Its Attorneys

December 2, 2004

⁴ Nextel Letter of September 16, 2004, at p. 2.

EXHIBIT A

**Summary of EA & License Holdings
for...**

Commercial Radio Service Corp.

**A.R.C., Inc.
dba Antenna Rentals Corp.**

Coastal SMR Network, LLC

October 2004

EA LICENSE SUMMARY:

Call Sign	EA	EA Description	Block	Channels	# Chnls	Date of Auction	\$ Pd at Auction	2000 POPs
WPRV491	EA 014	Salisbury, MD-DE-VA	F	853.5125-854.1125	25	9/6/2000	\$ 20,150	363,970
WPSA396	EA 014	Salisbury, MD-DE-VA	R	856,857,858,859,860.5875	5	12/7/2000	\$ 1,235	363,970
WPSA401	EA 014	Salisbury, MD-DE-VA	T	856,857,858,859,860.6375	5	12/7/2000	\$ 975	363,970
WPRV489	EA 015	Richmond-Petersburg, VA	E	852.2625-852.8625	25	9/6/2000	\$ 108,550	1,446,123
WPSA383	EA 015	Richmond-Petersburg, VA	H	856,857,858,859,860.0375	5	12/7/2000	\$ 10,400	1,446,123
WPSA393	EA 015	Richmond-Petersburg, VA	Q	856,857,858,859,860.5625	5	12/7/2000	\$ 7,150	1,446,123
WPSA397	EA 015	Richmond-Petersburg, VA	S	856,857,858,859,860.6125	5	12/7/2000	\$ 14,950	1,446,123
WPSA386	EA 016	Staunton, VA-WV	K	856,857,858,859,860.1125	5	12/7/2000	\$ 8,450	334,087
WPSA394	EA 016	Staunton, VA-WV	Q	856,857,858,859,860.5625	5	12/7/2000	\$ 5,525	334,087
WPSA387	EA 017	Roanoke, VA-NC-WV	K	856,857,858,859,860.1125	5	12/7/2000	\$ 5,070	826,284
WPSA390	EA 017	Roanoke, VA-NC-WV	L	856,857,858,859,860.1375	5	12/7/2000	\$ 8,450	826,284
WPSA395	EA 018	Greensboro-Winston Salem-High Point, NC-VA	Q	856,857,858,859,860.5625	5	12/7/2000	\$ 20,150	1,854,853
WPSA398	EA 018	Greensboro-Winston Salem-High Point, NC-VA	S	856,857,858,859,860.6125	5	12/7/2000	\$ 16,900	1,854,853
WPSA403	EA 018	Greensboro-Winston Salem-High Point, NC-VA	V	856,857,858,859,860.6875	5	12/7/2000	\$ 8,450	1,854,853
WPSA388	EA 019	Raleigh-Durham-Chapel Hill, NC	K	856,857,858,859,860.1125	5	12/7/2000	\$ 22,750	1,831,510
WPSA391	EA 019	Raleigh-Durham-Chapel Hill, NC	L	856,857,858,859,860.1375	5	12/7/2000	\$ 11,050	1,831,510
WPSA402	EA 019	Raleigh-Durham-Chapel Hill, NC	U	856,857,858,859,860.6625	5	12/7/2000	\$ 38,350	1,831,510
WPRV490	EA 020	Norfolk-Virginia Beach-Newport	EE	852.8875-853.4875	25	9/6/2000	\$ 208,000	1,722,764
WPSA385	EA 020	Norfolk-Virginia Beach-Newport News, VA-NC	I	856,857,858,859,860.0625	5	12/7/2000	\$ 31,200	1,722,764
WPSA399	EA 020	Norfolk-Virginia Beach-Newport News, VA-NC	S	856,857,858,859,860.6125	5	12/7/2000	\$ 1,040	1,722,764
WPRV492	EA 021	Greenville, NC	FF	854.1375-854.7375	25	9/6/2000	\$ 61,750	823,517
WPSA389	EA 021	Greenville, NC	K	856,857,858,859,860.1125	5	12/7/2000	\$ 29,900	823,517
WPRV493	EA 022	Fayetteville, NC	FF	854.1375-854.7375	25	9/6/2000	\$ 53,300	528,224
WPSA384	EA 022	Fayetteville, NC	H	856,857,858,859,860.0375	5	12/7/2000	\$ 37,050	528,224
WPRV494	EA 025	Wilmington, NC-SC	FF	854.1375-854.7375	25	9/6/2000	\$ 35,750	878,267
WPSA392	EA 026	Charleston-North Charleston, SC	L	856,857,858,859,860.1375	5	12/7/2000	\$ 3,900	587,297
WPSA400	EA 026	Charleston-North Charleston, SC	S	856,857,858,859,860.6125	5	12/7/2000	\$ 20,800	587,297
					255		\$ 791,245	

SITE-BASED LICENSE SUMMARY:

Call Sign	EA	EA Description	Channels	# Chnls
WPGC449	14	BELLE HAVEN, VA	851.0875	1
WPGD653	14	BELLE HAVEN, VA	854.4375	1
WPGJ612	14	BELLE HAVEN, VA	851.1875	1
WPGJ613	14	BELLE HAVEN, VA	851.3375	1
WPXR374	15	RICHMOND, VA	856,857,858,859.3125	4
WPGD465	19	HENDERSON, NC	853.2875	1
WNXS388	20	VIRGINIA BEACH, VA	855,856,857,858,859,860.6125	6
WPAI798	20	VIRGINIA BEACH, VA	856,857,858,859,860.6875	5
WPEA277	20	SMITHFIELD, VA	851.1875	1
WPFC790	20	VIRGINIA BEACH, VA	856,857,858,859,860.0625	5
WPFE527	20	HAMPTON, VA	854.3625	1
WPFU496	20	FRANKLIN, VA	851.1125	1
WPFV465	20	AHOSKIE, NC	853.5625	1
WPFV467	20	COINJOCK, NC	854.7375	1
WPFV468	20	AHOSKIE, NC	853.6625	1
WPFV649	20	FRANKLIN, VA	853.4875	1
WPFV704	20	HAMPTON, VA	851.1625	1
WPFV705	20	FRANKLIN, VA	854.4625	1
WPFV707	20	ELIZABETH CITY, NC	854.5125	1
WPFV709	20	ELIZABETH CITY, NC	853.2625	1
WPFV852	20	ELIZABETH CITY, NC	854.0375	1
WPFV924	20	COINJOCK, NC	852.2875	1
WPFV929	20	COINJOCK, NC	853.3875	1
WPFV961	20	COINJOCK, NC	851.5125	1
WPFV962	20	WINFALL, NC	853.3625	1
WPGC357	20	AHOSKIE, NC	851.8875	1
WPGC739	20	NEWPORT NEWS, VA	855.7625;858,859.7875	3
WPLP771	20	EDENTON, NC	856,857,858,859,860.3125	5
WPMJ841	20	NEWPORT NEWS, VA	851,854.5125;852.2875;852.5625;853.0125;853.3875;853.6625; 853.8375;854.8125;855.0625;856,857.9125	12
WPMN633	20	VIRGINIA BEACH, VA	856,857,858,859.7875	4
WPNP446	20	CHESAPEAKE, VA	856,857,858,859.7875	4
WPEX902	21	BUXTON, NC	856,857,858,859,860.0125	5
WPFF766	21	WINDSOR, NC	852.5625	1
WPFF768	21	WINDSOR, NC	853.0125	1
WPHQ295	21	NEW BERN, NC	852.2625	1
WPLP933	21	WANCHESE, NC	851.2875;851.7125;852.0125;852.4375;852.9125;853.2375;853.5875; 853,859.8125;854.1625	10
WPTH683	21	KITTY HAWK, NC	851.0625;854.7125, 856,857,858.1125	5
WPGD453	25	GEORGETOWN, SC	854.2125	1
WPGD455	25	FLORENCE, SC	853.4125	1
WPGD460	25	FLORENCE, SC	852.3625	1
WPGD461	25	FLORENCE, SC	852.4875	1

SITE-BASED LICENSE SUMMARY (Cont.):

Call Sign	EA	EA Description	Channels	# Chnls
WPGD463	25	GEORGETOWN, SC	854.2625	1
WPGD543	25	GEORGETOWN, SC	854.3875	1
WPGD656	25	FLORENCE, SC	853.3625	1
WPGD848	25	FLORENCE, SC	853.6375	1
WPGG291	25	GEORGETOWN, SC	854.3625	1
WPGJ654	25	GEORGETOWN, SC	851.7625	1
WPGD443	26	CHARLESTON, SC	854.4125	1
WPGD444	26	CHARLESTON, SC	854.5125	1
WPGD445	26	MOUNT PLEASANT, SC	854.5875	1
WPGD451	26	MOUNT PLEASANT, SC	854.5625	1
WPGD452	26	CHARLESTON, SC	851.2125	1
WPGD454	26	FROGMORE, SC	854.3625	1
WPGD456	26	MOUNT PLEASANT, SC	854.1375	1
WPGD464	26	FROGMORE, SC	854.3875	1
WPGD466	26	CHARLESTON, SC	854.1625	1
WPGD475	26	MOUNT PLEASANT, SC	854.5375	1
WPGD542	26	FROGMORE, SC	854.2125	1
WPGD544	26	CHARLESTON, SC	854.1875	1
WPGD545	26	FROGMORE, SC	854.2625	1
WPGD845	26	MOUNT PLEASANT, SC	853.4625	1
WPGD541	23	CLOVER, SC	852.8625	1
WPGY441	23	CHARLOTTE, NC	851.6375	1
WPGY469	23	CHARLOTTE, NC	852.1625	1
WPGY470	23	CHARLOTTE, NC	852.3875	1
WPFZ979	24	ORANGEBURG, SC	852.1875	1
WPFZ980	24	ORANGEBURG, SC	854.0625	1
WPGD602	24	COLUMBIA, SC	852.2625	1
WPGD623	24	ORANGEBURG, SC	854.1125	1
WPGD640	24	ORANGEBURG, SC	852.5875	1
WPHE598	28	STATESBORO, GA	853.3375	1
WPHE631	28	SAVANNAH, GA	852.5625	1
WPHE638	28	SAVANNAH, GA	853.3375	1
WPHE642	28	STATESBORO, GA	852.5625	1
WPHE646	28	STATESBORO, GA	852.9375	1
WPHE654	28	SAVANNAH, GA	853.8375	1
WPHE673	28	SAVANNAH, GA	852.9375	1
WPHE674	28	SAVANNAH, GA	853.0125	1
WPFZ978	41	GREENWOOD, SC	853.4875	1
WPGD457	41	SIX MILE, SC	851.2125	1
WPGD477	41	SIX MILE, SC	853.5125	1
WPGD627	41	GREENWOOD, SC	854.0125	1

EXHIBIT B

Performance
i n d u s t r i e s , L P
Consulting, Mergers & Acquisitions

November 30, 2004

Mr. Julian Shepard
Williams Mullen
1666 K Street, NW
Suite 1200
Washington, DC 20006

Dear Mr. Shepard,

Pursuant to your request, the following is a summary of Performance Industries' engagement history with John W. Harris relative to his spectrum holdings through A.R.C., Inc., Coastal SMR Network, LLC and CRSC Holdings, Inc.

Background

My client, as noted above, has provided service to the Virginia and North Carolina marketplace for more than 30 years through Specialized Mobile Radio sales and service. In an effort to expand services to the current market, in September 2000, A.R.C., Inc. purchased six blocks of 800 MHz spectrum at Auction 34 in Economic Areas 14, 15, 20, 21, 22 and 25. In December 2000, A.R.C., Inc. purchased 21 additional blocks of 800 MHz spectrum at Auction 36 in Economic Areas 14, 15, 16, 17, 18, 19, 20, 21, 22 and 26.

In March 2001, Performance Industries began providing services to Mr. Harris to expand the market services it was currently providing through the site-based licenses used in the systems of Coastal SMR Network and CRSC Holdings, which included engineering studies relative to the build out of the EA channels as provided in the FCC guidelines allowing permissible operations such as analog or digital services used for voice communications, paging, data and facsimile services. Our engineering studies included the determination of "white space" available in the EAs through 40/22 dBu service/interference contours for each of the frequencies acquired at auction. To further our efforts, Performance Industries' facilitated meetings with Motorola, ComSpace, Central Tech Wireless and others to develop a plan to build out all EAs, including the conversion to a cellular-architecture system via iDen, Harmony or similar technology.

As our engineering, market plan development and system analysis progressed throughout 2001, the unfortunate activities of September 11, 2001 transpired. Following the terrorist attacks of September 11, Nextel issued a White Paper on November 21, 2001 petitioning

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the FCC to realign the 800 MHz land mobile radio band to rectify interference through separation of cellular and non-cellular architectural systems and to allocate additional spectrum to meet critical public safety needs. In March 2002, the FCC responded to Nextel's White Paper with the adoption of a Notice of Proposed Rule Making (NPRM) to explore ways to improve the spectrum environment for public safety operations in the 800 MHz band. During this time, we constructed the EA licenses in an analog format while awaiting clarity from the FCC on its decision and anticipating beginning our expansion plan for a cellular-architecture system.

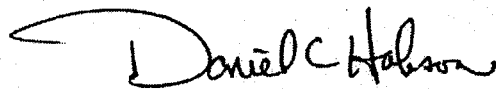
In September 2002, the Consensus Parties (including Nextel) filed their relocation plan in response to the FCC's NPRM. This plan was further edited through a Supplemental Consensus Plan filed in December 2002. The FCC issued an extension to the original NPRM in January 2003 as a result of the supplemental comments by the Consensus Parties. Again, during this time our client faced uncertainty on the implementation and capital expense relating to building a cellular architecture system until a firm decision was made by the FCC. In April 2004, our client filed comments (attached hereto) urging the Commission to adopt a balanced approach to treat all licensees fairly and allowing for the election of operation in the "cellularized" portion of the band however that is defined.

Summary

Based upon the events of 9/11, the issuance of Nextel's White Paper, and the resulting action by the FCC, our client's plans for the development of a cellular-architecture system were halted pending the FCC's decision on rebanding within 800 MHz. As the decision regarding 800 MHz band reconfiguration has taken nearly 3 years, it is unrealistic to expect the implementation of a cellular system prior to the R&O publication in the Federal Register.

Thank you for your time and consideration. If I can provide additional clarity on this matter, please feel free to contact me.

Regards,

A handwritten signature in black ink that reads "Daniel C. Hobson". The signature is written in a cursive style with a large, sweeping initial "D".

Daniel C. Hobson
President

cc: John W. Harris
Attachment

April 8, 2004

Via Email

The Honorable Michael K. Powell
Chairman
Federal Communications Commission
445 Twelfth Street, S.
Washington, DC 20554

Re: A.R.C. Inc.; WT 02-55

Dear Chairman Powell:

A.R.C. Inc. ("ARC"), as a licensee purchased, awarded and operating a network of multiple EA licenses through Auctions 34 and 36, including many site-based licenses within the 800 MHz band, wishes to communicate with urgency that ARC's 800 MHz network must receive nondiscriminatory treatment should the Commission decide to move forward with some form of rebanding in this proceeding. ARC urges the Commission to adopt the following approach:

- ARC must be allowed to operate in the "cellularized" portion of the band however that is defined. If the Commission decides to establish the cellularized band above 861 MHz ARC must be allowed to relocate its operations into this portion of the band.
- ARC and other EA licensees must be allowed to relocate to clear, contiguous spectrum throughout its operating area, either current NPSPAC or upper 200 or a combination thereof.
- The spectrum must be cleared of incumbents with fair treatment and consideration to all EA licensees. ARC and all EA licensees should be treated the same as Nextel.
- The Commission must ensure the "exchange rate" for spectrum for all concerned is non-discriminatory. ARC's spectrum must be counted in the same manner as other parties who would be relocated including Nextel and Nextel Partners. Nextel and Nextel Partners cannot be allowed to trade spectrum on one basis while all other parties are forced to accept replacement spectrum on another, less favorable, basis.

ARC respectfully requests the Commission to take these points into consideration when it moves towards a decision in this important proceeding.

Very truly yours,

A.R.C., INC.

John W. Harris